

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MIGUEL and INGA GUTIERREZ,

Plaintiffs,

vs.

No. CIV 06-0937 RB/WPL

THOMAS SCHWANDER, et al.

Defendants.

MEMORANDUM OPINION AND ORDER

This matter comes before the Court on Defendants Elizabeth A. Gordon's and John S. Gordon's Third Motion for Summary Judgment, filed April 8, 2008 [Doc. 353]. The Gordons contend that they are entitled to summary judgment on all of Plaintiffs Miguel and Inga Gutierrez's trespass claims against them on the basis of collateral estoppel. As stated in the Court's Memorandum Opinion and Order issued July 7, 2008 (Doc. 393), all claims for trespass based on use of the Gordon Road, which would include use by the Gordons, are precluded by the doctrine of claim preclusion. *See* July 7 Order at 13-16. But, as the Court has noted in its opinion and order addressing the Gordons' first motion for summary judgment, issued this same day, that does not mean that the Gordons have established entitlement to judgment on all trespass claims against them.

IT IS ORDERED THAT the Gordons' Third Motion for Summary Judgment [Doc. 353] is granted in part and denied in part, and that only those claims for trespass based on the Gordons' use of the Gordon Road are barred by the doctrine of collateral estoppel.



**ROBERT C. BRACK
UNITED STATES DISTRICT JUDGE**